



AN  
A C C O U N T  
OF THE  
**Arraignments and Tryals**

Col. Richard Kirkby, } Capt. Samuel Vincent,  
Capt. John Constable, } and  
Capt. Cooper Wade, } Capt. Christopher Fogg,

FOR

*Cowardice, Neglect of Duty, Breach of Orders,  
and other Crimes,*

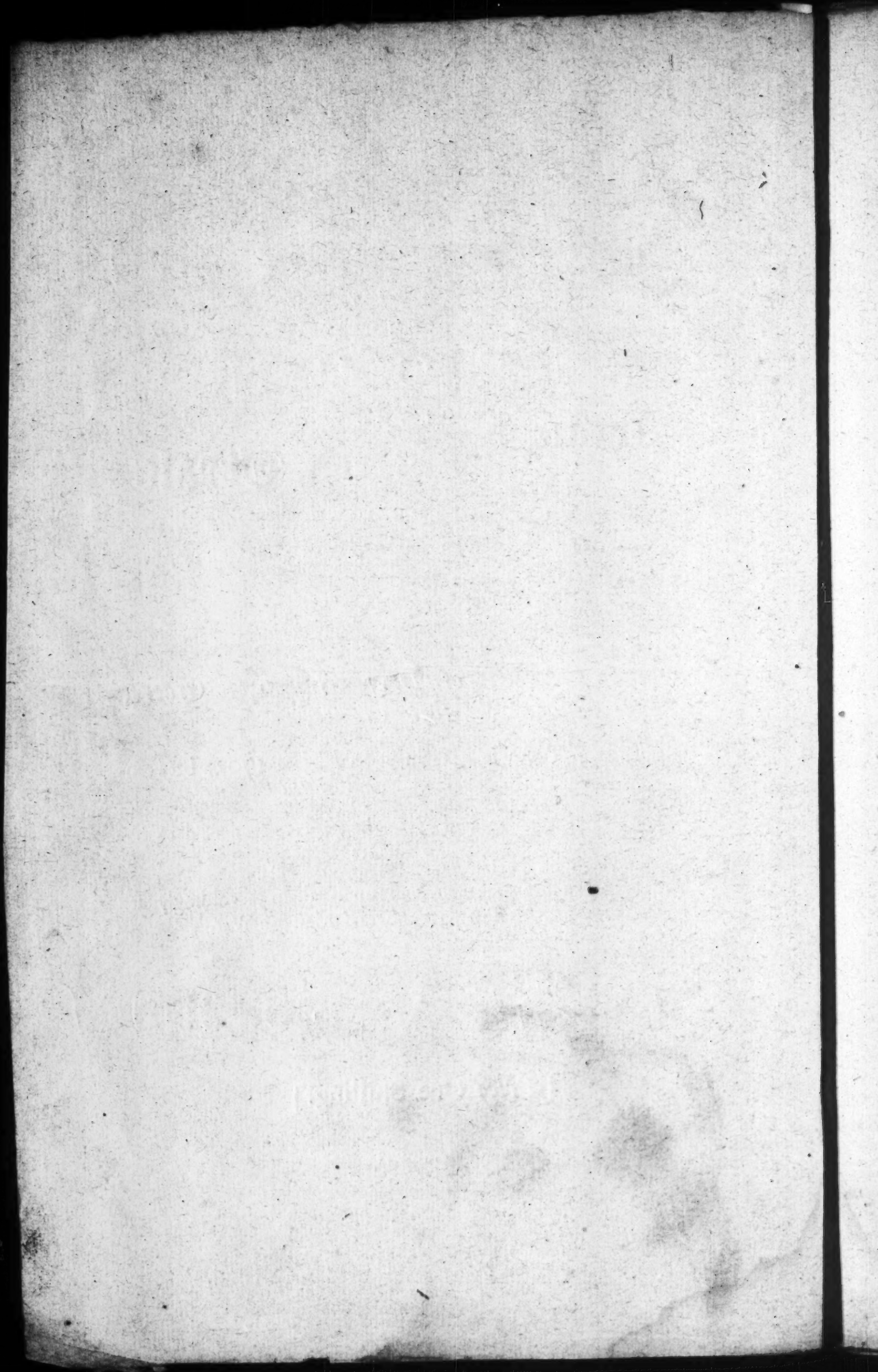
Committed by Them in a Fight at Sea, *Anno 1702*, between  
Admiral *Benbow*, and Monsieur *Du Casse* :

For which Col. *Kirkby*, and Capt. *Wade* were Sentenc'd to be  
Shot to Death :

Which said Sentence was Executed upon them accordingly at  
*Plymouth*, on Board the *Bristol* Man of War.



[*Price One Shilling.*]





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ACCOUNT

OF THE

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OF

Col. Richard Kirkby,   ✽ Capt. Samuel Vincent,  
Capt. John Constable,   ✽ and  
Capt. Cooper Wade,   ✽ Capt. Christopher Fogg,

ON

A Complaint Exhibited by the Judge-Advocate on Behalf of Her Majesty Queen ANNE, at a Court-Martial held on Board the Ship *Breda* in Port-Royal Harbour in *Jamaica* in *America*, the 8th, 9th, 10th, and 12th Days of October, 1702

FOR

*Cowardice, Neglect of Duty, Breach of Orders, and other Crimes,*

Committed by Them in a Fight at Sea, commenced the 19th. of August, 1702, off of St. *Martha*, in the Latitude of Ten Degrees North, near the Main-Land of *America*; Between the Honourable JOHN BENBOW, Esq; and Admiral DU CASSE with Four French Ships of War.

FOR WHICH

Colonel *Kirkby* and Captain *Wade* were Sentenc'd to be Shot to Death :

Which said Sentence was Executed upon Them accordingly at *Plymouth*, on Board the *Bristol* Man of War.

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With a Particular RELATION of the said ENGAGEMENT:  
And DEATH and CHARACTER of Admiral BENBOW.

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L O N D O N :

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# An ACCOUNT of the T R Y A L S

OF

Colonel *Richard Kirkby*, Captain *John Constable*,  
Capt. *Cooper Wade*, Capt. *Samuel Vincent*, and  
Capt. *Christopher Fogg*.

A T a Court-Martial held on Board Her Majesty's Ship the *Breda*,  
in *Port-Royal Harbour* in *Jamaica* in *America*, the 8th, 9th,  
10th, and 12th Days of *October*, 1702 :

Present,

The Honourable *William Whetstone*, Esq; Rear-Admiral of Her  
Majesty's Ships for the *West-India Squadron*, [*President*.]

*Samuel Vincent*,  
*John Hartnoll*,  
*Christopher Fogg*,  
*John Smith*,  
*John Redman*,  
*George Walton*,



*William Russell*,  
*Barrow Harris*,  
*Hercules Mitchell*,  
*Philip Boyce*,  
*Charles Smith*.

*Arnold Browne*, Esq; Judge-Advocate.

*Who being all duly Sworn, pursuant to the ACT of Parliament ;*

[*Octob. 8.*] PROCEEDED to the Tryal of *John Arthur*, Gunner of  
the *Defiance*, on a Complaint exhibited by *Francis Knighton*, Third Lieu-  
tenant of the *Defiance*, and *George Foster*, Gunner of                      for hiding  
and concealing Forty-three Barrels of Powder in the Wadd-Room, and  
covering them with Wadds and Quoins, &c. when a Survey of Her Maje-  
sty's Stores of Ammunition after an Engagement, was ordered ; and deny-  
ing to the Surveyors that there was any more Powder on Board, than was  
in the Powder-Room and Gun-Room, viz. One Hundred ; which upon a  
second Survey were discovered. It was proved also, That he had Two  
Keys to the Powder-Room ; and that having lost or mislaid his own, he  
without

without making any Application to the Commanding Officer then on Board, who kept the other Key, prevailed with *William Baker*, Carpenter of the said Ship, to break open the Door.

IN Mitigation of his Offence, he alledged, " That examining into the Powder-Room, he found Three Barrels that had received Wet, which caused his Removal of the Forty-three Barrels;" but had little to say for his concealing them from the Surveyors. Whereupon the Court adjudged, " That the said Offence falling under the 33<sup>d</sup>. Article of War, the said *John Arthur* should be carried from Ship to Ship in a Boat, with a Halter about his Neck, the Provost-Marshal declaring his Crimes; and all his Pay as Gunner to be mulcted and forfeited to the Chest at *Chatham*, and be render'd incapable of serving Her Majesty in any other Employment."

[*Octol. 8, 9.*] COLONEL *Richard Kirkby*, Commander of the *Defiance*, was Tryed before the aforesaid Court, (except Captain *Samuel Vincent*, and Capt. *Christopher Fogg*, who appeared as Witnesses for the QUEEN,) on a Complaint exhibited by the Judge-Advocate on the Behalf of Her Majesty, of *Cowardice, Neglect of Duty, Breach of Orders*, and other Crimes committed by Him at a Fight at Sea, commenced the 19<sup>th</sup>. of *August*, 1702, off of *St. Martha*, in the Latitude of Ten Degrees North, near the Main Land of *America*, Between the Honourable *John Benbow*, Esq; Vice-Admiral of the Blue Squadron of Her Majesty's Fleet, and Admiral and Commander in Chief, &c. on Board Her Majesty's Ship *Breda*, *Christopher Fogg*, Commander, and Six other of Her Majesty's Ships, viz. the *Defiance*, *Richard Kirkby* Commander; the *Falmouth*, *Samuel Vincent* Commander; *Windsor*, *John Constable* Commander; *Greenwich*, *Cooper Wade* Commander; *Ruby*, *George Walton* Commander; and the *Pendennis*, *Thomas Hudson* Commander; And Monsieur *Du Casse*, with Four French Ships of War: Which continued until the 24<sup>th</sup>. of *August* inclusive.

The Witnesses that were Sworn in Behalf of the QUEEN; viz.

The Honourable *John Benbow*, Esq; Admiral.  
2 Captains.  
8 Lieutenants.  
5 Masters.  
5 Inferior Officers.

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WHO Deposed, That the said Colonel *Richard Kirkby*, the Van in the Line of Battle, the 19<sup>th</sup> of *August*, about Three in the Afternoon, the Signal of Battle being out, the Admiral was forc'd to send his Boat on Board of *Kirkby*, and command his Making more Sail, and get a-breast of the Enemies Van, for that he was resolv'd to Fight them: About Four the Fight began; but the said *Kirkby* did not fire above Three Broadsides, then luffed up out of the Line, and out of Gun-shot, leaving the Admiral engag'd with Two French Ships till Dark, and the said *Kirkby* receiving no Damage: That his Behaviour caused great Fear of his Desertion; at Night the said *Kirkby* fell a-stern, leaving the Admiral to pursue the Enemy.

THAT



THAT the 20th. at Day-light, the Admiral and *Ruby* were within Shot of all the Enemies Ships, but Col. *Kirkby* was near Three or Four Miles a-stern. The Admiral then made a new Line of Battle, and took the Van himself, and sent to each Ship, with a Command to the said *Kirkby* to keep his Line and Station, which he promised to do, but did not, keeping Two or Three Miles a-stern, tho' the Signal for Battle was out all Night; the *French* making a Running Fight, the Admiral and *Ruby* plyed the Enemy with their Chase Guns till Night. That the 21st. Day at Light, the Admiral was on the Quarter of the second Ship of the Enemies Rear, and the *Ruby* on the Board-side, very near, who plyed him warmly, and met the same Return, by which he was so much disabled, tho' the Admiral came in to his Assistance, that he was forc'd to be Towed off; and this prevented the Admiral's Design of cutting off the Enemies sternmost Ship. This Action lasted Two Hours, during which Time the said *Kirkby* lay a Broad-side of the sternmost Ship; as did also the *Windsor*, *John Constable* Commander. The Admiral then commanded the said *Kirkby* to ply his Broad-sides on him; but this having no Effect, the second Time he commanded the same, but he fired not one Gun; nay, his own Boatswain and Seamen repeated the Admiral's Command to him, but were severely us'd, and threatned That he would run his Sword through the Boatswain: And had the said *Kirkby* done his Duty, and Capt. *Constable* his, they must have taken or destroyed the said *French* Ships. The Admiral, tho' he received much Damage in his Sails, Rigging, Yards, &c. yet continued the Race all Night. That the 22d. in the Morning at Day-light, the *Greenwich* was three Leagues a-stern, and the *Defiance*, Col. *Kirkby*, with the rest of the Ships, three or four Miles, the *Falmouth* excepted, whose Station was in the Rear: That the said Capt. *Samuel Vincent* seeing the Behaviour of the said *Kirkby*, and the rest, came up with the Admiral, and sent his Lieutenant on Board, desiring Leave to assist him, which was accepted: The said *Kirkby* never coming up, and by his Example the rest did the same, as if they had a Design to sacrifice the Admiral and *Falmouth* to the Enemy, or desert. The Enemy were now about a Mile and a half a-head, standing in to the Shore with a small Breeze at W. fetched within *Sambeys*, the Admiral firing at the sternmost till Night, and continued the Pursuit; and a *Flemish* Ship that was in Monsieur *Du Casse's* Company, on Board of which was all the *French* and *Spanish* new Governors and other Officers, made her Escape. That the 23d. in the Morning at Day-light, the Enemy bore *Northwest*, distant about four or five Miles, the Admiral and *Falmouth* pursuing; but the said Col. *Kirkby* with the rest of the Ships being three or four Miles a-stern; (tho' there was not a Ship, but before and after the Battle, sailed better than the Admiral:) About Seven in the Evening, it having been some time calm, a Gale of Wind sprung up, the Admiral and *Falmouth* were about two Miles from the Enemy, and at Eight the said *Kirkby* and his separate Squadron was fair up with the Admiral; and this Day the Admiral sent away the disabled *Ruby*, *George Walton*, Commander, to *Port-Royal*, and under his Convoy the *Anna* Galley, retaken from the *French*.

THAT the 24th. in the Morning about Two of the Clock, the Admiral came up with the sternmost of the Enemy within Call, and the *Falmouth* pretty near; but the said Colonel *Kirkby* with the rest of the Ships, according to Custom, were three or four Miles a-stern: The Admiral and

*Falmouth* )

*Falmouth* engaged the said Ship, and at Three the Admiral was wounded, his Right-Leg being broke, but commanded the Fight to be vigorously maintained, and at Day-light the Enemies Ship appeared like a Wreck, her Mizon-Mast shot by the Board, her Main-Yard in three or four Pieces, her Foretopfail-Yard the same, her Stays and Rigging all shot to Pieces. Soon after Day, the said *Kirkby*, with the rest of the Ships being to Windward of the said disabled Ship, he the said *Kirkby* with the rest of his separate Squadron, fired about twelve Guns at the said Ship; and fearing a smart Return from her, he lower'd his Mizon-Yard, his Topfails on the Caps, set his Spritsail, Spritsail Topfail, and Foretopfail Stayfail, and having waired his Ship, set his Sail, and run away before the Wind from the poor disabled Ship, the rest following his said Example; though they had but eight Men kill'd on board them all (except the Admiral.) The other three *French* Men of War were at this Time of Action about four Miles distant from their maimed Ship; whereupon the Enemy seeing the Cowardice of the said Colonel *Kirkby* and the rest of the *English* Ships, in a Squall bore down upon the Admiral, who lay close by the disabled Ship, and having got in their Spritsail-Yard, gave him all their Fire, and running between him and the disabled Ship, re-mann'd her, and took her in. The Admiral's Rigging being very much shatter'd, was oblig'd to lye and refit till Ten o'Clock, and then continued the Pursuit; and the rest of the Fleet following in the greatest Disorder imaginable, the Admiral commanded Captain *Fogg* to stand a-breast of the Enemy's Van, and then to attack him, and having then a fine steady Gale, the like not happening during the whole Engagement; and further order'd "That he should send to all the Captains to keep the Line of Battle, and behave themselves like *Englishmen*;" And this Message was sent by Captain *Wade*, then on Board the *Breda*. That the said Colonel *Kirkby* on the Receipt of this Message, and seeing the Admiral's Resolution to engage, came on Board Him, who then lay wounded in a Cradle; and without common Respect of enquiring after his Health, he the said *Kirkby* expressed these Words following; viz. *That he wonder'd that the Admiral should offer to engage the French again, it being not necessary, safe, nor convenient, having had Six Days Trial of their Strength;* and then magnified That of the *French*, and lessened That of the *English*. But the Admiral being surprized at his Speech, said, *It was but one Man's Opinion, and that he would have the rest of the Captains;* and accordingly ordered the Signal to be made for all the Captains to come on Board; and at this Time the Admiral and the rest of the Ships were to Windward, and within Shot of the Enemy, and had the fairest Opportunity, that in Six Days presented, to chase, engage, and destroy the Enemy.

THAT the said Colonel *Kirkby* had endeavoured to poyson the rest of the Captains, forming a Writing under his own Hand, which was Cowardly and Erroneous: The Substance of which was, *Not to engage the Enemy any more:* He the said Colonel *Kirkby* brought it to the Admiral, who reproved him for it, saying, *It would be the Ruin of all:* Upon which he the said Colonel *Kirkby* went away, but writ another in the following Words.



*At a CONSULTATION held on Board Her Majesty's Ship Breda, the 24th. of August, 1702, off of Carthage, on the Main Continent of America.*

It is the *OPINION* of Us whose Names are under-written,

- I. **O**F the great Want of Men in Number, Quality, and the Weakness of those they have.
- II. The general Want of Ammunition of most Sorts.
- III. Each Ship, Masts, Tards, Sails and Rigging, being all in a great Measure disabled.
- IV. The Winds are so small and variable, that the Ships can't be govern'd by any Strength; each Ship,
- V. Having experienced the Enemy in Six Days Battle, following the Squadron consisting of Five Men of War and a Fire-ship, under the Command of Monsieur Du Casse; their Equipage consisting in Guns from 60 to 80, and having a great Number of Seamen and Soldiers on Board for the Service of Spain.

*For which Reasons above-mentioned, We think it not fit to engage the Enemy at this Time, but to keep them Company this Night, and observe their Motion; and if a fair Opportunity shall happen of Wind and Weather, once more to try our Strength with them.*

Richard Kirkby, Samuel Vincent, John Constable,  
Christopher Fogg, Cooper Wade, and Thomas Hudson.

THAT during the Six Days Engagement, He never encouraged his Men; but by his own Example of dodging behind the Mizzen-Mast, and falling down upon the Deck on the Noise of Shot, and denying them the Provisions of the Ship, the said Men were under great Discouragement. That he amended the Master of the Ship's Journal of the Transactions of the Fight, according to his own Inclination.

*All which was proved, as aforesaid:*

THE said Colonel Richard Kirkby denied the Whole, excepting the pretended Written Consultation: Which being shown to him, he own'd his own Hand, and Name too. He brought several of his Men to give an Account of his Behaviour during the Fight; but their Testimonies were insignificant; and his Behaviour to the Court and Witnesses most unbecoming a Gentleman. And being particularly ask'd by the Court, *Why he did not fire at the Enemies sternmost Ship, which lay point-blank with him the 21st. of August?* He replied, *Because they did not fire at him, for that they had a Respect for him:* Which Words, upon several Occasions during the Trial, he repeated Three several Times.

WHEREUPON, on due Consideration of the Premises, of great Advantages the *English* had in Number, being Seven to Four, of Guns 122

more than the other ; with his Acts and Behaviour as aforesaid, and more particularly his ill-timed Paper or *Consultation* as afore-recited, which obliged the Admiral for the Preservation of Her Majesty's Fleet, to give over the Chase and Fight, to the irreparable Dishonour of the QUEEN, Her Crown and Dignity, and came to *Port-Royal, Jamaica*: For which Reasons the Court was of Opinion, That he fell under the 11th, 12th, 14th, and 20th Articles of War; and adjudged accordingly, *That he be shot to Death*: But further decreed, That the Execution of Colonel *Kirkby* be deferred till Her Majesty's Pleasure be known therein; but be continued a close Prisoner till that Time.

CAPTAIN *John Constable*, Commander of the *Windsor*, was Tried before the aforesaid Court, on a Complaint exhibited by the Judge-Advocate on the Behalf of the Queen, for *Breach of Orders, Neglect of Duty*, and other ill Practices committed during a Fight commenced the 19th. of *August*, 1702, as aforesaid. (*Refer to Col. Kirkby's Trial.*)

The Witnesses sworn on the Behalf of the QUEEN, were,

2 Captains,  
7 Lieutenants,  
5 Masters,  
2 Other Officers,  
The Honourable John Benbow, Esq; Admiral.

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17 Witnesses.

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WHO Deposed, "That Captain *John Constable* never kept his First nor Second Line of Battle, but acted in all Things as Colonel *Kirkby* had done. That the Admiral had fired Two Guns to command him into the Second Line of Battle. That he did set more Sail in order to come into the Line and his Station; but upon Col. *Kirkby's* calling to him to keep his Line, he accordingly did. That the Admiral sent his Lieutenant *Landgridge* to command him the said *Constable* to keep his Line of Battle within half a Cable's Length of the Ship before him, which was twice verbally delivered. And, That he signed the Paper, *Consultation*; as is in Col. *Kirkby's* Trial aforesaid; tending to the Hindrance and Disservice of Her Majesty, &c. and was Drunk during the Fight, &c."

*All which was fully proved, as aforesaid.*

THE said Capt. *John Constable* denied his *Breach of Orders*, or *Neglect of Duty*; but owned the Signing the Paper, or *Consultation*, prepared by Col. *Kirkby*, and did it at his Request; and for that he had received Damage in his Masts and Rigging, and owned no other Article to be true, but that he had signed to: He called several Witnesses to his Behaviour during the Fight; who all declared "He kept the Quarter-deck during the Engagement, and encourag'd his Men to Fight; and that sometimes he gave them Drums of Rum; and that Verbal Message delivered by Lieutenant *Landgridge*, was deliver'd him in some Heat and Passion, and was understood to be, To keep the Line within half a Cable's Length, and to follow *Kirkby*; which he did. That he so understood it himself, and several of his Men: He prayed the Mercy of the Court, and so concluded, &c."

WHERE-



WHEREUPON, on due Consideration of the Premises, the Court were of Opinion, That the said *John Constable*, Captain, fell under the 12th, 14th, and 20th Articles of War; and adjudged the said Captain *John Constable* to be immediately Cashier'd, and render'd incapable of serving Her Majesty, and be imprisoned during Her Majesty's Pleasure, and sent home to *England* a Prisoner in the first Ship the Admiral shall think fit; and be confined a Prisoner till then.

[*Octob. 10. and 11.*] CAPTAIN *Cooper Wade*, Commander of the *Greenwich*, was Tryed before the aforesaid Court; on a Complaint exhibited by the Judge-Advocate, on the Behalf of the QUEEN, of High Crimes and Misdemeanors of *Cowardice*, *Breach of Orders*, and *Neglect of Duty*, and other ill Practices, committed during a Fight, commenc'd the 19th. of *August*, 1702, as aforesaid. [*Refer to that Part of Colonel Kirkby's Trial.*]

The Witnesses sworn on Behalf of the QUEEN.

The Honourable *John Benlow*, Esq; Admiral,  
9 Lieutenants,  
3 Masters,  
3 Inferior Officers.

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16 Witnesses.

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WHO deposed, That during the Six Days Engagement, he never kept the Line of Battle, fired all his Shot in vain, not reaching half way to the Enemy; That he was often told the same by his Lieutenants and other Officers, but, notwithstanding, he commanded them to fire, saying, They must do so, or the Admiral would not believe they fought, if they did not continue the Fire. That during the whole Fight the Admiral was engaged in, the said Captain *Wade* received but one Shot from the Enemy; That he was in Drink the greatest Part of the Time of Action; And, That he sign'd the Paper or Consultation drawn up by Col. *Kirkby*, as aforesaid; and in the time of Fight arraigned the Honourable Courage and Conduct of the Admiral.

*All which was fully proved, as aforesaid.*

THE said Captain *Cooper Wade* denied the Arraignment of the Honourable Courage and Conduct of the Admiral, during the whole Six Days Engagement, declaring the Bravery and good Management of the Admiral in this Time of Action; and that no Man living could do more or better, for the Honour of the QUEEN and Nation. He called some Persons to justify his Behaviour, who said little in his Favour. He begged the Mercy of the Court, and so concluded. Whereupon the Court was of Opinion, That the said *Cooper Wade* fell under the 11th, 12th, 14th, and 20th Articles of War; and accordingly adjudged the said *Cooper Wade* to be Shot to Death: But it is farther declared by the Court, That the Execution of the said Captain *Cooper Wade* be deferred till

till Her Majesty's Pleasure be known therein ; but he continued a close Prisoner till that Time.

CAPTAIN *Samuel Vincent*, Commander of the *Falmouth*, and Captain *Christopher Fogg*, Commander of the *Breda*, were Tryed before the aforesaid Court, on a Complaint exhibited by the Judge-Advocate, for High Crimes and Misdemeanors, and ill Practices in Time of Admiral *Benbow's* Fight with Monsieur *Du Casse*, as aforesaid, in signing a Paper called a *Consultation* and Opinion held on Board the *Breda*, the 24th. of August, 1702. (Which is Verbatim recited in Colonel *Kirkby's* Trial, to which refer.) It tending to the great Hindrance and Disservice of Her Majesty's Fleet then in Fight: And the said Paper so written, being shewed to each of them, they severally owned their Hands to the same. But the said Captain *Vincent* and Captain *Fogg*, for Reason of Signing the same, alledged, That being deserted during each Days Engagement by Colonel *Richard Kirkby* in the *Defiance*, Captain *John Constable* in the *Windsor*, Captain *Cooper Wade* in the *Greenwich*, and Captain *Thomas Hudson* in the *Pendennis*, and left as a Prey to Monsieur *Du Casse*, they had great Reason to believe they should be Captives to the Enemy. And the Honourable *John Benbow*, Esq; Admiral, &c. coming into Court, declared, That during the Six Days Fight the said Captain *Fogg* behaved himself with great Courage, Bravery, and Conduct, like a True *Englishman*, and Lover of his QUEEN and Country: And that the said Captain *Samuel Vincent* Valiantly and Courageously behaved himself during the said Action, and desired Leave to come into His the said Admiral's Assistance, then engaged with the Enemy, and deserted by all the rest of the aforesaid Ships, which he did to the Relief of the said Admiral, who otherwise had fallen into the Hands of Monsieur *Du Casse*.

WHEREUPON the Court being of Opinion, That the Signing of the aforesaid Paper brought them under the Censure of the 20th Article of War, accordingly adjudged Captain *Samuel Vincent*, and Captain *Christopher Fogg*, to be Suspended: But the Execution thereof is hereby respited, till his Royal Highness Prince *GEORGE* of *Denmark*, Lord High Admiral of *England*, &c. his further Pleasure be known therein.

CAPTAIN *Thomas Hudson*, Commander of the *Pendennis*, died on Board his said Ship, in the Harbour of *Port-Royal*, at *Jamaica*.

AT Five o'Clock the 12th. Day of *October*, 1702, the President, &c. having finished all the Business before the Court, dissolved the same.





## An Account of the said ENGAGEMENT.

**O**N the 11th. of July, 1702, Vice-Admiral *BENBOW* set Sail from *Port-Royal* with Her Majesty's SHIPS the *Breda*, Capt. *Fogg* Commander, where he also was Himself; the *Defiance*, *Richard Kirkby*; the *Windsor*, *John Constable*; the *Greenwich*, *Cooper Wade*; the *Ruby*, *George Walton*; *Pendennis*, *Thomas Hudson*; and *Falmouth*, *Samuel Vincent*, CAPTAINS.

HIS Design was, To have join'd Rear-Admiral *Whetstone*; but having receiv'd Intelligence, That Monsieur *Du Casse*, the French Admiral was expected at *Leogaon*, on the North Side of *Hispaniola*, he made the best of his Way thither. Coming into the Gulph of *Leogaon*, he forc'd the Captain of a French Man of War to run his Ship a-shore, and blow her up, and took Three Vessels more, One of Sixteen, Another of Thirty-one, and a Brigantine of Six Guns, which he brought away. After that, he came before the Town of *Leogaon*, where he burnt a Ship of Eighteen Guns. From thence the Admiral Sail'd for *Cape Donne Maria*, where understanding that *Du Casse* was gone for *Cartagena*, and thence to *Porto-Bello*, he resolv'd to follow Him in the *Breda*, with the *Defiance*, *Pendennis*, *Windsor*, *Greenwich*, *Ruby*, and *Falmouth*; the Whole Squadron consisting of Seven Ships of the Line of Battle.

ACCORDINGLY, On the 10th. of August, 1702, in the Afternoon, Admiral *BENBOW* stretch'd over to the Coast of *Saint Martha*, near which Place (on the 19th. in the Morning) he 'spy'd Ten Sail steering Westward along the Shore, under their Top-Sails. Four of these Vessels were stout Ships of War, from 60 to 70 Guns, commanded by *Du Casse*; the Fifth was a Large Flemish Vessel, having on Board all the French and Spanish New Governors and Officers; the Sixth was a Transport full of Soldiers; the Seventh, Eighth, and Ninth were small Vessels, and the Tenth was a Sloop.

AS soon as Admiral *BENBOW* had discovered these Ships, he order'd out the Signal for Battle; at what Time some of his Ships being Three or Four Miles a-stern, he steer'd with an easy Sail, that the rest might come up; and he soon after formed his Line in the following Order: 1st. Captain *Kirkby*, in the *Defiance*, to lead the Van. 2d. Capt. *Hudson*, in the *Pendennis*. 3d. Capt. *Constable*, in the *Windsor*. 4th. Himself, in the *Breda*. 5th. Capt. *Wade*, in the *Greenwich*. 6th. Capt. *Walton*, in the *Ruby*; And 7th. Capt. *Vincent*, in the *Falmouth*, brought up the Rear.

AFTER the Line was formed, the Admiral perceived, That Capt. *Kirkby*, who led the Van, hung back, and therefore about Three o'Clock, he sent his Boat on Board him, commanding him to make more Sail, and get a-breast of the Enemy's Van, being determined to Engage as soon as ever he could come up. *Kirkby*, upon the Receipt of



this Order, directed more Sail to be made, and about Four o'Clock, coming up with the *French* Fleet, the Engagement began.

THE Action continued Six Days, and might have prov'd Fatal to the *French*, had All the *English* Captains done their Duty: But, the very First Day, the *Defiance*, Capt. *Kirkby*, and the *Windsor*, Capt. *Constable*, after they had received Two, or Three Broadides, Lust out of the Line, quite out of Gun-shot, the First carrying Sixty-four, and the other Sixty Guns: As little Assistance did the Admiral receive from the *Greenwich*, Capt. *Wade*, and the *Pendennis*, Capt. *Hudson*, who many Times lay a-stern Three or Four Mile out of Harms Way: So that the whole Strefs of the Action lay upon the *Breda*, Capt. *Fagg*, the *Ruby*, Capt. *Walton*, and the *Falmouth*, Capt. *Vincent*: But the *Ruby* was so shatter'd and disabled, that the Admiral was forc'd to send her away to *Port-Royal*: nevertheless, they re-took an *English* Ship which had been formerly taken by the Enemy; and so disabled the Enemy's Second best Man of War of Seventy Guns, that she was forc'd to be Tow'd off; and the rest of the Squadron was so shatter'd, that they took the first Opportunity offer'd, to fly before the Wind.

ADMIRAL BENBOW, altho' he was successively deserted, and had no Hope of such Assistance as would put him upon equal Terms with the Enemy, or indeed lessen the Odds against Him, which were now Two to One, still continued the Pursuit, whenever the Enemy was before Him, and renewed the Fight as soon as they were overraken: He therefore, without farther regarding the Wretches, whom neither his Orders nor his Example could influence, Engaged a Ship he had come up with, seconded only by the *Falmouth*.

THE last Day of the Engagement, in the Afternoon, the Admiral had his Right-Leg broken by a Chain-shot, and he was obliged to leave the Quarter-Deck till it could be dress'd, and afterwards caused himself to be brought up in his Cradle, upon the Quarter-Deck, and continued the Fight, in Hopes that such an Example would have fir'd the Deserters into an Emulation of his Valour: But nothing would do: Capt. *Kirkby* came Aboard Him, and (without taking any Notice of the unhappy Condition he found Him in, who then lay Wounded in his Cradle) press'd Him to desist from any farther Engagement; telling Him, *It was neither Necessary, Safe, nor Convenient, having had Six Days Trial of their Strength*; and then magnified *That* of the *French*, and lessened *That* of the *English*.

THE Admiral who heard this Speech with equal Surprize and Indignation, told *Kirkby*, That *He hoped he was singular in his Opinion, as Six Ships were then to the Windward, and within Gun-shot of Three, and had the fairest Opportunity that had yet offer'd, during a Fight of Six Days, to Take or Destroy Them*: He therefore order'd the Signal to be made for the rest of the Captains to come on Board.

THIS, probably, was what *Kirkby* wanted; for when the Captains were together, a Council might be formed, in which he knew there was a Majority on his Side.

AS soon therefore as all the Captains were on Board the Admiral's Ship, *Kirkby* presented to them a Paper, purporting to be the Result of a Consultation, in which it was determined, That *It was not fit, or, in other Words,*

not



not for the Advantage of the Service, to Engage the Enemy any more. This Paper he induced all the Captains to sign: Himself and Three others who had refused to Engage, signed it to justify themselves; and Captain Fogg, of the Admiral's own Ship, and Captain Vincent, of the *Falmouth*, signed it, because, believing they should still be deserted, and left a Prey to the French, it was their real Opinion, That it was not fit to continue the Fight upon Terms so Unequal and Disadvantageous.

THE Admiral being thus disappointed in the Issue of the Consultation, and perceiving they had no Mind to Fight, he thought it not fit to venture any farther, so gave over the Pursuit, and put into *Jamaica*, tho' he was not, at that Time, above a Broadside from the Enemy; and had a fair Opportunity of Fighting them, his Masts and Yards in a good Condition, and few Men slain, except those who were kill'd on Board the *Breda*.

HOWEVER, the Admiral would not be thus satisfied; for, as soon as he got into *Port-Royal*, Rear-Admiral *Whetstone* having joined Him, he empower'd the Rear-Admiral to hold a Court-Martial for the Trial of *Kirkby*, *Wade*, *Constable*, and *Hudson* (whom he order'd to be confin'd) as also for the Trial of *Fogg* and *Vincent*, who, tho' they had otherwise behav'd Well, yet were suppos'd to have been Guilty of a Breach of the 20th Article of War, by Signing the Paper.

*HUDSON* Died on Board his Ship before the Trial came on.

AGAINST *Kirkby* and *Wade* the Charge was fully proved.

IT was also proved against *Kirkby*, That instead of Encouraging his Men to Fight, he set them an Example of the basest Cowardice; not only in keeping his Ship at a Distance, but in dodging behind the *Mizon-Mast*, and falling down upon the Deck at the Noise of the Enemy's Shot, even when he was too far off to be hurt; that he also denied them the Provisions of the Ship.

IT was also proved, That his Gunner conceal'd Forty-three Barrels of Powder in the Wad-Room, covering them with Wadds and Lumber, and denying that he had any more Powder on Board than was in the Gun-Room; and that he alter'd the Master's Journal of the Fight, according to his own Inclination.

IT was also proved against *Wade*, That he fir'd a great Number of Shot which could not reach Half-way to the Enemy; and that when his Lieutenant and other Officers remonstrated against this shameful Waste of Powder and Ball, he still persisted in his Command to Fire, saying, They must do so, or else the Admiral would not believe they Fought. That he was Drunk during the whole Six Days; and that he insolently Arraigned the Courage and Conduct of the Admiral.

*KIRKBY* and *Wade* were found Guilty of All laid to their Charge, and Sentenc'd to be Shot to Death, but respited till Her Majesty's Pleasure could be known.

DURING this Respite, Great Interest was made to save them; but to no Purpose; for Warrants to Execute them, were lodged in all the Ports of England; and upon their Arrival on the 14th. of April 1703, in the *Bristol* Man of War, in the Port of *Plimouth*, from *Jamaica*, they were Shot to Death on Board the said Ship, in Pursuance of the same Sentence confirm'd



confirm'd by Her Majesty, for *Cowardice, Breach of Orders, and Neglect of Duty.*

**CONSTABLE** was also convicted of Misconduct ; But it appear'd, That the Verbal Orders which he received to keep the Line were deliver'd with Heat and Passion, and might be understood so as to mean, *That he should keep with Kirkby*, which he did ; and were so understood by several that heard them. It was proved in his Behalf, *That he kept the Quarter-Deck, Encouraged his Men, and gave them Rum.* His Sentence therefore was, *That he should be Cashier'd, and render'd incapable of further Service, and Imprison'd during Her Majesty's Pleasure.*

**HUDSON**, as is before said, Died before his Trial.

**FOGG**, and *Vincent* were Adjudged to be Suspended from their Employments, for Misdemeanor ; but not till the Pleasure of Prince **GEORGE** of *Denmark*, Lord-High-Admiral of *England*, could be known.

**JUST** before Captain *Kirkby* was Shot, being asked, *How he who had fought several Duels, could have been capable of the Particular kind of Misbehaviour for which he suffer'd :* He replied, *He knew how to parry a Small-sword, but not a Cannon-Ball.*



#### DEATH and CHARACTER of Admiral **BENBOW**.

**T**HIS Brave ADMIRAL survived the Loss of his Leg about Nine Weeks ; and was then carried off by the Violence of a Fever, that yielded not to Art or Medicine ; to the deserved Regret of All who wished well to the Prosperity and Glory of this Maritime Kingdom.

HE was Born at *Shrewsbury*, in the County of *Salop*, and Bred up in the Free-School there : And 'tho' the Family of the **BENBOW**'s were none of the Meanest, yet they were so Reduc'd by their Loyalty in the Late Civil Wars, that He was Bound Apprentice to a Waterman ; afterwards He us'd the Seas, and set up for a Privateer in the *West-Indies*. At length, He attain'd to be Master of Attendance at *Deptford*, wherein he continued for some Years.

IN the Wars in 1702, He was made Choice of for the Bombing of the Sea-Coast Towns of *France*, in which Service he rais'd Himself to such Reputation of being an Able and Valiant Seaman, that He was sent Admiral of a Squadron of Men of War to the *West-Indies*.

HE was a Man of that Temperance, that never any of his nearest Relations or Intimates ever saw Him disguis'd in Drink. He was also naturally very Charitable ; insomuch that the Parish where He was Born, had a great Miss of his Annual Benevolence. He was of an Undaunted Resolution ; Bold and Daring ; and deserved a Better Fate than to be so Basely and Cowardly Deserted by the Captains under Him, who, had They done but Half their Duty, might have preserved Him, a long Time, for the Service of his Country, which he lov'd beyond his Life.

THE Bravery of his Soul condemn'd the Loss of his Leg, which did not trouble Him half so much (as he express'd Himself in a Letter to his Wife) as the Villainous Treachery of his Captains, which hinder'd Him from Totally Destroying the *French* Squadron under M. *Du Casse*, as above related.

F I N I S.

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